

## **XII. “SEVERELY HANDICAPPED”\* STUDENTS AND CONTRACTED PLACEMENT REIMBURSEMENT (SHCPR)**

The provisions of this section only apply to costs incurred for placements occurring prior to August 28, 2005.

\*Missouri statutes use the term “severely handicapped”; therefore, this section of the State Plan will use that term rather than the preferred term “severely disabled.”

For purposes of this section of the State Plan, severely handicapped children are children who, because of the extent of the handicapping condition or conditions, are unable to benefit from or meaningfully participate in public school programs. Students who are determined to be severely handicapped by the SEA, and not residents of a special school district, are the responsibility of the SEA. The SEA shall provide reimbursement to LEAs for the cost to the LEA of serving students who are severely handicapped in approved private agency placements. Local tax effort (LTE) and any state aid generated by the student shall be deducted from the cost of such a placement.

### **1. Criteria for Identification as Severely Handicapped**

A student is severely handicapped for purposes of “Severely Handicapped Contracted Placement Reimbursement” (SHCPR) if the student meets one of the two criteria listed below, AND the LEA demonstrates an inability to provide the student with educational benefit, within the context of IDEA’s preference for integration with non-disabled peers:

- a. The student scores four or more standard deviations below the mean on standardized measures of cognitive functioning and shows commensurate deficits in at least two areas of adaptive functioning or, if the student is unable to respond to any standardized measure of cognitive ability due to a combination of sensory and/or motor impairments, diagnostic information indicates significant deficits in intellectual and adaptive behavior skills such that the student requires pervasive level of supports across all life areas.
- b. The student’s cognitive impairment is not in the severe mental retardation range described above, but the SEA finds that the student’s disability or disabilities are so pervasive and intense as to require, by any reasonable determination, that the student requires a private educational placement.

### **2. SHCPR Application Process**

- a. LEAs must apply, annually, through the SHCPR process developed by the SEA, for determination of whether a student is severely handicapped.
- b. An LEA request to have a student identified by the SEA as severely handicapped must justify why its removal or proposed removal of the student from the school district or a public school program, is appropriate in the context of the LRE

- requirements of state and federal regulations implementing IDEA. Such justification must include documentation that the LEA has:
- 1) Considered educating the student through the public school program;
  - 2) Identified supplementary aids and services that would be needed to educate the student in the public school program;
  - 3) Articulated why the school district cannot provide an educational benefit to the student within the school district's own program or through another public school program.
- c. Additional documentation as specified in the application process (e.g. IEPs, evaluation reports, progress notes), or requested on an individual basis shall be submitted.

### 3. Students Ineligible for SHCPR

- a. Applications for SHCPR may not be submitted by LEAs for students who are enrolled in, and attending, the State Schools for Severely Handicapped (SSSH), Missouri School for the Deaf (MSD), and Missouri School for the Blind (MSB). These students automatically meet the criteria to be identified as severely handicapped by virtue of their enrollment and attendance in SSSH, MSD, and MSB and will continue to be identified as severely handicapped unless SSSH, MSD, or MSB determines, through the IEP process, that the student's least restrictive environment (LRE) is the LEA, or that the student requires a homebound placement. These students do not result in a cost to the district, and therefore no application for SHCPR may be submitted.
- b. A homebound placement is considered an LEA program, and does not include temporary or intermittent homebound services decided upon by the IEP team, as those are services which SSSH, MSD, and MSB provide to students enrolled in and attending SSSH, MSD, and MSB. Therefore, an LEA may not apply for reimbursement to serve students who require a homebound placement.

### 4. Dispute Resolution/Due Process Hearing Rights/Parent Challenge

- a. A parent of a student referred, and accepted as eligible to attend SSSH, MSD, or MSB continues to have due process hearing rights to challenge the LEA proposed placement in SSSH, MSD, or MSB, if the parent believes that the LEA is the LRE, and that SSSH, MSD, or MSB is too restrictive a placement.
- b. If parent challenges an LEA proposed placement to SSSH, MSD, MSB through a due process hearing, the LEA shall be a party to the due process hearing.
  - 1) The LEA must justify its proposed removal of the child to SSSH, MSD, or MSB at the due process hearing, based on LRE requirements. SSSH, MSD, MSB, (or DESE if named as an agency) shall not be a proper party to such a hearing, but agency staff may be subpoenaed to testify by either party.
- c. A parental challenge to continued SSSH, MSD, or MSB placement for a child enrolled in, and attending SSSH, MSD, or MSB, where the parent believes that the LEA is the LRE, and alleges that SSSH, MSD, or MSB is too restrictive a placement, and where the SSSH, MSD, or MSB IEP team believes that continued

- placement is appropriate, shall challenge the continued placement through a due process hearing against SSSH, MSD, or MSB. The LEA shall not be a proper party to such a hearing, but LEA staff may be subpoenaed to testify by either party.
- d. A parent continues to have due process hearing rights to challenge a LEA proposed private agency placement, even if that proposed placement is of a student who the SEA has determined to be severely handicapped through the SHCPR application process.
    - 1) The LEA must justify, as a party to the due process hearing, its proposed removal of the child from the LEA, and proposed placement to the more restrictive setting of a private agency, at that due process hearing.
    - 2) DESE is not a proper party to such a hearing.
  - e. The right to a “stay-put” placement, provided for in state and federal regulations, applies to a parental challenge of a proposed change of placement described above.

## 5. Dispute Resolution/Appeal/LEA Challenge

Denial of an LEA application to identify a child as severely handicapped is subject to the LEA’s appeal.

- a. An appeal request must be filed, in writing, with the coordinator of special education services, division of special education, within 20 days of the date the application was denied.
- b. The coordinator, or a designee, shall serve as the review officer, and shall schedule an informal conference within 20 days of receipt of the request for appeal.
- c. The conference shall be held in an informal manner. The LEA may bring witnesses and present oral or written information, but witnesses need not be sworn or a written record kept.
- d. A decision shall be mailed to the LEA within 20 days of the conference, unless an extension of the time-line is determined necessary by the review officer.
- e. Any appeal of the decision shall be filed, in writing, with the assistant commissioner, division of special education, within 10 days of receipt of the decision.
- f. The appeal will consist of a records review by the assistant commissioner, or a designee.
  - 1) Oral argument requests may be granted by the assistant commissioner.
- g. The final decision will be issued by the assistant commissioner within 20 days of receipt of the request for review, unless extension of the time-line is determined necessary by the assistant commissioner.
- h. The appeal process is not subject to Chapter 536 RSMo, because it is not a contested case, and there is no right to a judicial review.
- i. Unless the parent has initiated a due process hearing to challenge the proposed placement that is the subject of the LEA application, resulting in stay-put, the LEA must implement the proposed placement, while the appeal is pending with the SEA.

- j. If the denial of the application is reversed through the appeal process, the SEA shall reimburse retroactively the LEA for the placement of the student who is severely handicapped.

#### 6. IEP Meeting Participation

- a. When the SEA has determined a student is severely handicapped, the SEA reserves the right to attend IEP meetings for that student.
- b. IEP meetings of students attending SSSH, MSD, or MSB are convened by SSSH, MSD, or MSB.
  - 1) LEA representatives shall attend those SSSH, MSD, or MSB IEP meetings in which integration activities at the LEA are being considered by the team, or where a change in placement to the LEA is anticipated. A refusal of the LEA to attend such IEP meetings shall not prevent the IEP team from meeting.

#### 7. Integration Activities

Students, who are enrolled in, and attending State Board Operated Programs (SSSH, MSD, and MSB) and who take part in integration activities in the LEA, pursuant to their IEP, are still considered severely handicapped. Any integration activities decided upon by the IEP team shall be implemented. The LEA must allow access to the student enrolled in a SBOP, in accordance with the IEP. The SBOP shall arrange for and pay for any transportation involved in such integration activities and shall provide staff to accompany the student while the student attends integration activities at the LEA site.